

### **QUESTION ONE**

Paula, a San Francisco resident, was visiting in Nevada when she bought a used 4 wheel drive Jeep from Dave's Used Cars. Paula intended to register the car in California upon her return. While passing through Sacramento, the steering coupling broke causing the vehicle to leave the highway and roll down an embankment, destroying the car, which cost \$25,000. Paula suffered minor personal injuries in the accident.

Upon her return to San Francisco, Paula files suit in the local Superior Court for both property damages, as well as personal injuries. The summons is personally delivered to Dave in Reno. Dave challenges the court's jurisdiction over him. The court rejected the challenge. Dave thereafter filed a Complaint in Reno, Nevada against both Paula, for missed purchase price payments, and against Titan Coupling Co, which made the part of the car that failed.

Titan's president and shareholder was personally served when he examined the damaged car which had been towed back to the Dave's shop in Reno. Paula was served at her home where the summons was left with a PG&E repair man, who was fixing her gas stove at the time. Both Paula and Titan object to the court's jurisdiction over them.

Following the Superior Court's rejection of the jurisdiction arguments, Titan removes the case to the Federal District Court located in Oregon. After removal, Dave files a motion challenging the sufficiency of the service on him. The District Court denied the motion. Dave then file an Answer and included the affirmative defense that the venue in Oregon was wrong. Paula seeks to have that affirmative defense stricken.

Several months later, Dave files a motion claiming that the District Court has no jurisdiction since the plaintiff was seeking only \$25,000 in property damages and had only minor injuries. Paula challenges both the timing of the motion and the substance of the motion.

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ANSWER THE FOLLOWING QUESTIONS:

1. How should the Superior Court have ruled on the challenge by Dave to the court's jurisdiction?
2. Does the Nevada Superior Court have jurisdiction over Paula and Titan?
3. Will Paula prevail in her efforts to have Dave's affirmative defense stricken?
4. How should the District Court rule on Dave's motion to dismiss Paula's complaint?

**QUESTION TWO**

Paula runs a construction company in Stockton, CA. She purchases an earthmover from two brothers David and Dan. The earthmover cost over \$200,000. David lives in Reno, Nevada and Dan lives in Sacramento. Paula files suit in the US District Court in San Francisco. She claims that the defendants violated the Federal Fair Financing Act by charging too much interest. She also adds a cause of action for breach of contract since, when she cancelled the contract, the brothers refused to return her deposit of \$50,000. Assume the rules permit this joinder, can the defendants have the case dismissed?

Before filing his answer, Dan seeks to change the venue of the case to Sacramento, since that is where the contract was signed. Will the court change the venue?

Assuming the breach of contract claim stays in the case, David seeks to force the plaintiff to list all of her witnesses and documents immediately. California has a rule that requires this, but the federal court does not. Paula seeks to strike Dan's answer since he did not file a Statement of Interested Parties. This Statement is required in the US District Court, but not in state court. How should the court rule on these motions?

At the same time that Dan tried to change venue, he challenged the service on him of the complaint. Paula's process server could not find Dan and simply taped the summons and complaint on his door with a red sign. Dan found this when he got home, but ignored the paperwork.

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QUESTION TWO

ANSWER THE FOLLOWING QUESTIONS:

1. Can the defendants get some or all of the case dismissed?
2. Will the court change the venue of the case based on Dan's motion?
3. How should the court rule on the defendant's motion to force the plaintiff to identify her witnesses and the plaintiff's motion to strike the answer?
4. How should the court rule on the challenge to the service on Dan?